Senate Confirms Kleindienst to Be Attorney General

64-19 Vote Ends Bitter Hill Conflict

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By Spencer Rich
Washington Post Staff Writer

The Senate confirmed the nomination of Richard G. Kleindienst as Attorney General of the United States by a 64-to-19 roll-call vote yesterday, ending one of the bitterest fights in history over a presidential cabinet appointment.

Before approving Kleindienst, the Senate rejected, 63 to 20, a motion by Edward M. Kennedy (D-Mass.) to send the nomination back to the Judiciary Committee for more study of Kleindienst's role in settlement of the 1971 antitrust case involving the International Telephone and Telegraph Corp.

Kennedy, and Sens. John V. Tunney (D-Calif.), Quentin N. Burdick (D-N.D.) and Birch Bayh (D-Ind.), contended that despite 24 days of hearings, the Nixon administration failed to clear up charges that it settled the ITT case on terms satisfactory to the company in exchange for an ITT pledge of at least $200,000 toward the cost of the 1972 Republican National Convention, then set for San Diego.

But administration spokesmen responded that the hearings had produced no evidence that Kleindienst acted improperly, that Democrats were attempting to stretch out the hearings to discredit the administration in an election year.

Immediately after the Kleindienst vote, the Senate confirmed, 83 to 0, the nomination of George P. Schultz as Secretary of the Treasury.

Not a single Republican voted against Kleindienst on either roll-call. Of the Democratic presidential candidate, George McGovern (D-S.D.) and Edmund S. Muskie (D-Maine) voted in favor of recommittal and against nomination, Henry M. Jackson (D-Wash.) voted against recommittal and in favor of the nomination, and

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Hubert H. Humphrey (D-Minn.) was present and took the same position as McGovern and Muskie, but was paired with an absent senator and didn't actually cast his vote. Democratic Leader Mike Mansfield of Montana voted in favor of the nomination.

After the vote, at an impromptu press conference at the Justice Department, Kleindienst said, "I'm humbled and flattered by this vote."

He said, "I'm glad that it's over. If I had to do it again, I would hopefully do it the same way as I did, content to let the processes of our government work."

He pledged to administer the laws "fairly, evenly," and "with compassion and with understanding."

Aides said he will be sworn in Monday at 11:15 a.m. at the White House.

Of major importance in the Kleindienst struggle was the position taken by Sen. Philip A. Hart (D-Mich.), the senior northern Democrat on the Judiciary Committee.

Hart's reputation for fairmindedness and integrity is equaled by few other senators. When Hart concluded that, despite disquieting unanswered questions, there was inadequate evidence to justify denying Kleindienst confirmation, a great deal of the force disappeared from the challenge.

Kleindienst, a 48-year-old graduate of Harvard College and Harvard law school, a former state legislator in Arizona and political protege of Sen. Barry M. Goldwater (R-Ariz.), now will become Attorney General in his own right. He has been acting Attorney General since Feb. 15, when his predecessor, John N. Mitchell, stepped down to head President Nixon's re-election campaign.

Kleindienst had served under Mitchell as deputy Attorney General since the start of the Nixon administration.

Despite severe misgivings about Kleindienst among senators who considered his views too conservative, it did not appear when Mr. Nixon sent the nomination to the Senate on Feb. 15 that there would be substantial opposition.

After two days of hearings, the Judiciary Committee approved the nomination by a 13-to-0 vote on Feb. 24, and the way seemed clear for quick Senate confirmation.

But the issue was reopened after columns by syndicated writer Jack Anderson appeared in newspapers on Feb. 29 and March 1.

One of the columns printed a purported memorandum from ITT lobbyist Dita Beard to a superior in the company. It strongly implied that Nixon administration officials had agreed to settle the antitrust case against ITT—seeking to force it to divest the Hartford Insurance Co.—on terms favorable to the company, in return for a $400,000 contribution by ITT's Sheraton subsidiary to the costs of the GOP National convention then scheduled for San Diego.

The other column accused Kleindienst of an "outright lie" in denying—in a letter to Democratic National Committee Chairman Lawrence F. O'Brien—that he had handled

the ITT case.

The political simplications of these charges were immediately evident to both parties. For Democrats, it would be an enormous election-year boon to show that a payoff to the GOP had resulted in a favorable antitrust settlement for a conglomerate company. For Republicans, it was vital to repudiate or quash the charge.

Kleindienst demanded that the Senate Judiciary Committee reopen its hearings—so that he could clear himself. But evidence at the new hearings showed that Kleindienst had discussed the case with several ITT spokesmen, had channeled material presenting ITT's side of the anti-merger dispute to the Justice Department Antitrust Division, and had even acted to delay the department in taking the suit to the Supreme Court.

At the same time, it was revealed that White House aide Peter Flanigan, whom Tunney has described as a pro-business fixer, participated in some aspects of the case and had provided a private business analyst, Richard Ramsden, to the antitrust division to produce an analysis of the economic impact of the forced divestiture of Hartford from ITT.

It was on the basis partly of this document that antitrust chief Richard W. McLaren (now a federal judge) decided not to pursue the matter in the courts, but instead to reach a settlement allowing ITT to keep Hartford while wholly or partially divesting itself of several much smaller companies.

McLaren mintained that the decision was his own, without pressure from Kleindienst or others in the government. Meanwhile, Dita Beard, purported author of the incriminating memorandum published by Jack Anderson, fell ill with a heart seizure. Senators flew to Denver to question her in her hospital room, but she collapsed in the middle of testimony. She repudiated the Anderson memo but left unanswered whether there had ever been other memoranda, and who had typed the disputed document on an ITT typewriter.

She was never recalled.

When the hearings ended, the committee approved the nomination a second time, 11 to 4.

From these hearings, Kennedy, Tunney, Burdick and Bayh—the four opposition votes in committee—concluded that Kleindienst had participated in the case, that the question of the $200,000 to $400,000 pledge and its relation to the settlement remained unresolved, and that Flanigan's role needed further exploration. The said more hearings were needed, but Republicans and some southern Democrats blocked this in committee.

Hart also called for further exploration of unanswered questions, but said he saw nothing in the record to show that McLaren (whom Hart greatly respects) had been forced into a settlement that the thought inconsistent with the public interest.

And Hart saw no "substanital evidence upon which to conclude that Mr. Kleindienst was aware of, let alone involved in, any effort to link the settlement to the ITT convention commitment."

To all charges, GOP spokesmen like Sen. Roman L. Hruska (R-Neb.) answered that there wasn't a shred of evidence of any wrong-doing by Kleindienst.

They said that the convention financing offer wasn't linked to the antitrust suit and that in any event Kleindienst wasn't involved substantially in the decision on the suit and knew nothing of the financing.

The Roll Call To Confirm Kleindienst

Associated Press

Here is the 64-to-19 roll call vote by which the Senate confirmed the nomination of Richard G. Kleindienst to be attorney general:

Democrats For: 26

Allen (Ala.), Anderson (N.M.), Bentsen (Tex.), Bible (Nev.), Byrd (Va.), Chiles (Fla.), Eastland (Miss.), Ellender (La.), Ervin (N.C.), Hart (Mich.).

Hartke (Ind.), Hollings (S.C.), Jackson (Wash.), Jordan (N.C.), Long (La.).

Mansfield (Mont.), McGee (Wyo.), Montoya (N.M.), Pastore (R.I.), Proxmire (Wis.).

Randolph (W.Va.), Sparkman (Ala.), Spong (Va.), Stennis (Miss.), Symington (Mo.), Talmadge (Ga.).

Republicans For: 38

Aiken (Vt.), Allott (Colo.), Bellmon (Okla.), Bennett (Utah), Boggs (Del.), Brock (Tenn.), Brooke (Mass.), Buckley (N.Y.), Cook (Ky.), Cooper (Ky.).

Cotton (N.H.), Curtis (Neb.), Dole (Kan.), Fannin (Ariz.), Fong (Hawaii), Goldwater (Ariz.), Griffin (Mich.), Gurney (Fla.), Hansen (Wyo.), Hruska (Neb.).

Javits (N.Y.), Jordan (Idaho), Mathias (Md.), Miller (Iowa), Pearson (Kan.).

Percy (Ill.), Roth (Del.), Saxbe (Ohio), Schweiker (Pa.), Scott (Pa.), Smith (Maine), Stafford (Vt.), Stevens (Alaska), Taft (Ohio), Thurmond (S.C.).

Tower (Tex.), Weicker (Conn.), Young (N.D.).

Democrats Against: 19

Bayh (Ind.), Burdick (N.D.), Byrd (W.Va.), Church (Idaho), Eagleton (Mo.).

Fulbright (Ark.), Harris (Okla.), Hughes (Iowa), Kennedy (Mass.), McGovern (S.D.).

McIntyre (N.H.), Metcalf (Mont.), Mondale (Minn.), Moss (Utah), Muskie (Maine).

Nelson (Wis.), Ribicoff (Conn.), Stevenson (Ill.), Tunney (Calif.).

Paired: Cannon (D-Nev.) for; Humphrey (D-Minn.) against. (Pairs are used to denote the opposing positions of senators when one or both are absent.)

No Republicans voted against confirmation.

Absent or not voting (15): Baker (R-Tenn.), Bcall (R-Md.), Case (R-N.J.), Cranston (D-Calif.), Dominick (R-Colo.), Gambrell (D-Ga.), Gravel (D-Alaska), Hatfield (R-Ore.), Inouye (D-Hawaii), Magnuson (D-Wash.), McClellan (D-Ark.), Mundt (R-S.D.), Packwood (R-Ore.), Pell (D-R.I.), Williams (D-N.J.).